

USPTO Customer No. 25280

Case 5601

REMARKS

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JUL 12 2008**Double Patenting

Claims 10-13, 17-18, and 22 are rejected on the ground of non-statutory double patenting over claims 3 and 6 of US Patent 6,846,004 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The Office's position is essentially as follows:

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter. The claims of the instant application and those of the patent differ primarily in two ways: (i) the identity of the polar monomer is not specified and, thus, it is not immediately clear that the copolymer of the patent claims has a cohesion parameter within 3 units of silicone; and (ii) the coating is described as a "blend" in the patent claims as opposed to a semi-IPN.

As for the notion that the patent teaches a blend instead of a semi-IPN, it is noted that to the blend is added a catalyst, which promotes the reaction of the vinyl groups bonded to the silicone in which case a semi-IPN would be realized.

A terminal disclaimer over US Patent 6,846,004 is included herewith to overcome such rejection.

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Rejection under 35 USC 102(b)

Claims 10-12, 15-18, 20, and 22 are rejected under 35 USC 102(b) as being anticipated by US Patent 6,348,543 to PARKER.

The Office's position is essentially as follows:

PARKER discloses the manufacture of coated woven airbags wherein the coating composition comprises a vinyl-functional polysiloxane, ethylene-methyl acrylate copolymer, peroxide curing catalyst, and 3-methacryloxypropyltrimethoxysilane. Upon curing, the vinyl-functional silicone polymer in the presence of the vinyl copolymer, a semi-IPN is formed. The polysiloxane and ethylene-methyl acrylate copolymer taught by PARKER will inherently satisfy Applicant's limitation directed to the difference in their cohesion parameter given that these same types of polymer are employed in the present invention.

Claim 10 has been amended to remove the reference to cohesion parameters and to recite the Markush group (from Claim 18) of polymers useful as the "second polymer." The Markush group has also been amended to exclude ethylene-methyl acrylate.

The PARKER reference does not teach the creation of an airbag having a coating that is formed from a cross-linked silicone polymer and a second polymer, where the second polymer is trapped within the cross-linked silicone polymer to form a interpenetrating polymer network. The reference teaches only the use of ethylene-methyl acrylate, which is now excluded from the Markush group.

Because the reference fails to teach all of the limitations of Applicant's claims, Applicant believes the rejection under 35 USC 102(b) to be traversed and respectfully request that it be withdrawn.

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Rejection under 35 USC 102(e)

Claims 10-12, 15-18, 20, and 22 are rejected under 35 USC 102(e) as being anticipated by US Patent 6,545,092 to PARKER and US Patent 6,468,929 to PARKER.

The Office's rejection is essentially as follows:

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective filing date of the reference, it constitutes prior art under 35 USC 102(e). This rejection under 35 USC 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another", or by an appropriate showing under 37 CFR 1.131.

All citations of column and line location are the same as those for '543. The '092 and '929 disclosures are based on continuation applications of the application from which the '543 patent evolved and, therefore, will have an identical disclosure.

US Patent 6,468,929, US Patent 6,545,092, and the present application each have a single inventor, Richard H. Parker, listed as the inventive entity. A bar against patentability under 35 USC 102(e) exists when "the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent..."

MPEP 2136.04 states:

"Another" means other than applicants, *In re Land*, 368 F.2d 866, 151 USPQ 621 (CCPA 1966), in other words, a different inventive entity. The inventive entity is different if not all inventors are the same.

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Because the present application and the references have the identical inventive entity (that is, they were not filed by another), Applicant believes that there is no basis for this rejection. Applicant has included a declaration under 37 CFR 1.132 to attest to the inventive entity of the cited patents and present application.

Accordingly, because there is no basis for a rejection under 35 USC 102(e), Applicant respectfully requests that such rejection be withdrawn.

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Rejection under 35 USC 102/103

Claims 13 and 14 are rejected under 35 USC 102(b) as being anticipated by, or, in the alternative, under 35 USC 103(a) as being unpatentable over, US Patent 6,348,543 to PARKER.

The Office's argument is essentially as follows:

The phrase "Jacquard woven cushion" connotes a product-by-process as in a "cushion woven using a Jacquard fluid jet loom."

Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable, even though the prior product was made by a different process.

PARKER says that the fabric substrates of his invention are preferably woven using a fluid jet weaving machine, of which a Jacquard machine is one type. Although it is appreciated that other types of fluid jet looms exist, such as a dobby loom, it is the position of the Examiner that the woven products are essentially the same. In any case, the utilization of a Jacquard loom and, thus, the manufacture of a Jacquard woven article, are at least obvious in view of the limited number of known fluid jet weaving devices.

Applicant has cancelled Claims 13 and 14, thereby rendering this rejection moot.

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Claims 13 and 14 are rejected under 35 USC 102(e) as anticipated by, or, in the alternative, under 35 USC 103(a) as being unpatentable over, US Patent 6,545,092 to PARKER and US Patent 6,468,929 to PARKER.

Applicant has cancelled Claims 13 and 14, thereby rendering this rejection moot.

* * *

Applicant has added new Claims 23, 24, and 25. New Claims 23 and 24 depend from Claim 10, which Applicant believes to be in condition for allowance. These Claims find support in the specification in, for examples, Examples 2 and 4, respectively. New independent Claim 25 finds support in the specification in the table spanning pages 10 through 12, which lists various cohesion parameters for specific polymers. Applicant has chosen to claim a range that excludes ethylene methyl acrylate as the second polymer. Accordingly, Applicant believes this new Claim should also be allowable.

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CONCLUSION

For the reasons set forth above, it is respectfully submitted that the rejections have been traversed and that a formal Notice of Allowability should be issued for the remaining claims.

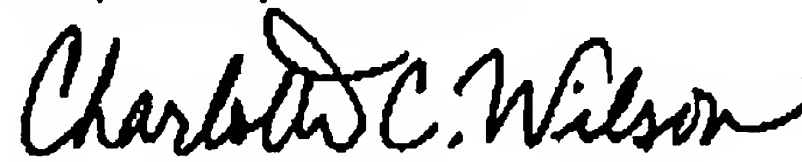
Once the Examiner has had the opportunity to review this Amendment and the accompanying Remarks, the Applicant requests a telephone conversation between the Applicant, the undersigned Agent for Applicant, and the Examiner to promptly and satisfactorily resolve any remaining issues of patentability.

The response is accompanied by a Petition for Extension of Time (three months). In the event that there are fees associated with the submission of these papers (including extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

Date: July 12, 2006

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